

REMARKS/ARGUMENT

Claim 1 has been canceled herein without prejudice, claims 2-19 have been amended, and claims 20-27 have been added. Accordingly, claims 2-27 are currently pending in the present application. It is respectfully submitted that the new claims and amendments do not add new matter and have adequate support throughout the Specification.

Otherwise, Applicants respectfully traverse all claim rejections for the reasons that follow:

I. REJECTIONS OF CLAIMS 1-9 AND 15 UNDER 35 U.S.C. § 112

Claims 1-9 and 15 were rejected as indefinite under 35 U.S.C. § 112, second paragraph. Claim 1 has been canceled herein without prejudice, thereby mooting the rejection of this claim, and claims 2-9 and 15 have been amended herein to address the Examiner's § 112 concerns. It is respectfully submitted that the amendments do not add new matter. Accordingly, it is kindly requested that the rejections of claims 1-9 and 15 under 35 U.S.C. § 112, second paragraph, be withdrawn.

II. REJECTIONS OF CLAIMS 1, 6, AND 9 UNDER 35 U.S.C. § 102(b)

Claims 1, 6, and 9 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,254,190 to Gregory (hereinafter "Gregory"). Claim 1 has been canceled herein without prejudice, thereby mooting the rejection of this claim. Furthermore, it is respectfully submitted that new claim 20, which contains features analogous to those of canceled claim 1, and claims 6 and 9 are allowable over Gregory for the following reasons.

Claim 20, from which claims 6 and 9 ultimately depend, relates to "[a] structure . . . comprising: a basic frame . . . having a peripheral region and ***a lower surface provided with an engagement groove*** . . . a net covering the element of the chair and wrapping around the peripheral region of the basic frame, the net having a peripheral edge; an engagement piece attached to the peripheral edge of the net, the engagement piece being insertable, with the net attached to the engagement piece, into the engagement groove of the basic frame; and ***a binding frame coupled to the lower surface of the basic frame for mounting the net to the basic***

frame." By providing the engagement groove on the lower surface of the basic frame, and by attaching the engagement piece to the net, the structure of claim 20 permits the net to be "wrapped around" an outer periphery of the basic frame and coupled to the lower surface thereof using relatively low and uniform tensile forces.

In contrast, the chair of Gregory does not include a "basic frame having a lower surface provided with an annular engagement groove," as recited in claim 20. Instead, Gregory provides a unitary U-shaped frame 42 having a longitudinally extending recess 56 *on a top surface thereof* for receiving a portion of seat fabric 32. (Gregory; col. 3, lines 9-15; Figures 6-7). Since the recess 56 of Gregory is on the top of the frame 42, it is believed that the seat fabric 32 cannot be adequately prestressed and attached to the frame 42 using relatively low and uniform tensile forces. In fact, Gregory requires a complex machine including a series of clamps for holding and prestressing the seat fabric 32. (Gregory; col. 3, lines 15-20).

Further regarding claim 20, Gregory does not disclose "a binding frame coupled to the lower surface of the basic frame *for mounting the net to the basic frame.*" As described above, Gregory discloses a single, unitary U-shaped frame 42 for mounting the seat fabric 32. Gregory does not disclose an additional binding frame, much less a binding frame "for mounting the net to the basic frame," as recited in claim 20.

For at least the foregoing reasons, it is respectfully submitted that claim 20 is allowable over Gregory. Furthermore, since claims 6 and 9 ultimately depend from claim 20, it is respectfully submitted that these claims are allowable over Gregory for at least the same reasons. Accordingly, it is kindly requested that the rejections of claims 1, 6, and 9 under 35 U.S.C. § 102(b) be withdrawn.

III. REJECTIONS OF CLAIMS 1-3 AND 5 UNDER 35 U.S.C. § 102(b)

Claims 1-3 and 5 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,059,368 to Stumpf et al (hereinafter "Stumpf"). Claim 1 has been canceled herein without prejudice, thereby mooting the rejection of this claim. Furthermore, it is respectfully submitted that new claim 20, which contains features analogous to those of canceled claim 1, and claims 2, 3, and 5 are allowable over Stumpf for the following reasons.

Stumpf relates to an Office Chair. Regarding the embodiment cited by the Examiner, Stumpf discloses a membrane fabric 210 which is "press-fit" using an insert 440 into a cavity 442 formed in the top surface of a carrier member 362. The fabric 210 may also be mounted in the cavity 442 by sonic welding. (Stumpf; col. 21, lines 24-34; Figures 49-56). The carrier member 362 is then mounted to a conventional seat frame 33.

Like Gregory, Stumpf provides the cavity (i.e., the engagement groove) on a *top surface* of the carrier member and, as such, simply does not disclose "[a] basic frame having a lower surface provided with an engagement groove," as recited in claim 20. By providing the cavity on the upper surface of the carrier member, it is believed that the membrane fabric 210 of Stumpf cannot be adequately prestressed or mounted using relatively low and uniform tensile forces.

Further regarding claim 20, it is respectfully submitted that Stumpf does not disclose "an engagement piece *attached to the peripheral edge of the net* and insertable, with the net attached, into the engagement groove of the basic frame," as recited in claim 20. Unlike claim 20, the membrane fabric 210 of Stumpf is insertable *by itself and with nothing attached thereto* into the cavity 442 of the carrier member 362.

Further regarding claim 20, Stumpf does not disclose "a binding frame coupled to the lower surface of the basic frame for mounting the net to the basic frame," as recited in this claim. As described above, a seat frame 33 is mounted to the bottom of the carrier member 362. However, since the cavity 442 is on the top surface of the carrier member 362, the membrane fabric 210 is not positioned on the bottom surface thereof between the carrier member 362 and the seat frame 33. Thus, the seat frame 33 does not "[mount] the net to the basic frame," as recited in claim 20.

For at least the foregoing reasons, it is respectfully submitted that claim 20 is allowable over Stumpf. Furthermore, since claims 2, 3, and 5 ultimately depend from claim 20, it is respectfully submitted that these claims are allowable over Stumpf for at least the same reasons. Accordingly, it is kindly requested that the rejections of claims 1-3 and 5 under 35 U.S.C. § 102(b) be withdrawn.

IV. REJECTIONS OF CLAIMS 1 AND 5-8 UNDER 35 U.S.C. § 102(e)

Claims 1 and 5-8 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Published Patent Application No. 2003/0071509 to Neil et al. (hereinafter "Neil"). Claim 1 has been canceled herein without prejudice, thereby mooted the rejection of this claim. Furthermore, it is respectfully submitted that new claim 20 and claims 5-8 are allowable over Neil for the following reasons.

Neil discloses a plastic frame assembly 10 including a plastic support member 12 and a top portion 16. The bottom portion 14 of the support member 12 is provided with a channel 18 for receiving a flexible and porous membrane 22. (Neil; page 2, paragraph 23). The assembly 10 is also provided with a plastic setting member 24 positioned within the channel 18 to force the membrane 22 into the channel 18 to secure the membrane 22 to the bottom of the channel 18. (Neil; page 2, paragraph 25).

It is respectfully submitted that Neil does not disclose "an engagement piece ***attached to the peripheral edge of the net and insertable, with the net attached***, into the engagement groove of the basic frame," as recited in claim 20. As described above, the membrane 22 is inserted ***by itself*** into the channel 18, and the plastic setting member 24 (which is not attached to the membrane 22) is inserted into the channel 18 separately to secure membrane 22 within the channel. Since the plastic setting member 22 is not attached to the membrane 22 before insertion of the membrane 22, it is believed that the membrane 22 must be prestressed and positioned ***before*** being inserted into the channel 18. This may require complex machinery, which is not required by the structure of claim 20.

For at least the foregoing reasons, it is respectfully submitted that claim 20 is allowable over Neil. Furthermore, since claims 5-8 ultimately depend from claim 20, it is respectfully submitted that these claims are allowable over Neil for at least the same reasons. Accordingly, it is kindly requested that the rejections of claims 1 and 5-8 under 35 U.S.C. § 102(e) be withdrawn.

V. REJECTIONS OF CLAIMS 1 AND 4 UNDER 35 U.S.C. § 102(b)

Claims 1 and 4 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 3,041,109 to Eames et al. (hereinafter "Eames"). Claim 1 has been canceled herein without prejudice, thereby mooting the rejection of this claim. Furthermore, it is respectfully submitted that new claim 20 and claim 4 are allowable over Eames for the following reasons.

Eames discloses a depending flange 12 for receiving an edge portion of a web 40. The edge portion of the web 40 is provided with a stiffener element 43, which is inserted (with the web 40) into a channel 8 formed in the side of the flange 12. Pins 70 are provided to ensure that the stiffener element 43 does not slide out of the channel 8.

It is respectfully submitted that Eames does not disclose "[a] basic frame having a lower surface provided with an engagement groove," as recited in claim 20. As described above, the channel 8 of Eames is provided on the *side* of the depending flange 12, not the bottom.

Further regarding claim 20, it is respectfully submitted that Eames does not disclose "a binding frame coupled to the lower surface of the basic frame for mounting the net to the basic frame." As described above, Eames discloses a single unitary flange 12 for receiving the stiffener element 43 and the web 40. This reference does not disclose a separate binding frame, much less a binding frame "for mounting the net to the basic frame."

For at least the foregoing reasons, it is respectfully submitted that claim 20 is allowable over Eames. Furthermore, since claim 4 depends from claim 20, it is respectfully submitted that this claim is allowable over Eames for at least the same reasons. Accordingly, it is kindly requested that the rejections of claims 1 and 4 under 35 U.S.C. § 102(b) be withdrawn.

VI. REJECTIONS OF CLAIMS 13-19 UNDER 35 U.S.C. § 102(e)

Claims 13-19 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Published Patent Application No. US 2003/0160494 to Coffield (hereinafter "Coffield"). Respectfully, Applicants traverse.

Claim 13 recites ". . . wefts comprising a plurality of *elastic yarns* and a plurality of *chenille yarns* stretched along a width direction of the respective frame." Coffield does not

disclose chenille or elastic yarns. In fact, after careful review of Coffield, it is believed that the words "yarns" and "chenille" do not even appear in Coffield.

For at least the foregoing reasons, it is respectfully submitted that claim 13 is allowable over Coffield. Furthermore, since claims 14-19 ultimately depend from claim 13, it is respectfully submitted that these claims are allowable over Coffield for at least the same reasons. Accordingly, it is kindly requested that the rejections of 13-19 under 35 U.S.C. § 102(e) be withdrawn.

VII. REJECTIONS OF CLAIMS 10-12 UNDER 35 U.S.C. § 103(a)

Claims 10-11 were rejected under 35 U.S.C. § 103(a) as unpatentable over Neil Gregory, and Stumpf, individually; and claim 10 was rejected under 35 U.S.C. § 103(a) as unpatentable over Eames. Respectfully, Applicants traverse.

Well settled case law makes clear that the initial burden lies with the Examiner to factually support a prima facie case of obviousness. See In re Rinehart, 531 F.2d 1048 (C.C.P.A. 1976); M.P.E.P. § 2142. An obviousness rejection presumes that the cited references do not individually disclose every element of a claim and, as such, to make out a prima facie case of obviousness, the Examiner must identify missing descriptive subject matter, must provide a suggestion or motivation to combine references or to modify a single reference with the missing descriptive subject matter, must show a reasonable expectation of success, and must demonstrate that the suggested combination teaches or suggests each and every limitation of a claim. See In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991); M.P.E.P. § 2142. *If the Examiner fails to factually support a prima facie case of obviousness, Applicants are under no obligation to submit evidence of nonobviousness. Id.*

Initially, it is noted that the Examiner failed to make out a prima facie case of obviousness of claims 10-12. The Examiner did not identify what method steps of claims 10-12 are alleged to be missing in any of the references, did not provide a suggestion or motivation to modify the references with the missing descriptive subject matter; did not show a reasonable expectation of success; and did not demonstrate, by factual support (as required by case law and the M.P.E.P.), that the references teach or suggest each and every limitation of the claims.

Instead, the Examiner conclusorily states that the cited references (i.e., Neil Gregory, Stumpf, and Eames) "teach obvious uses of the structures" disclosed therein. However, it is noted that claims 10-12 do not recite "uses" of any structure whatsoever, but rather recite method steps for the "fabrication" of a structure – namely, the fabrication of mounting a net to a basic frame. Thus, whether Neil Gregory, Stumpf, and Eames "teach obvious *uses* of the structures" disclosed therein is completely irrelevant.

For at least the foregoing reasons, it is respectfully submitted that Applicants are under no obligation to submit evidence of nonobviousness. Withdrawal of the obviousness rejections of claims 10-12 is therefore kindly requested. If the Examiner wishes to maintain these rejections, Applicants request that the Examiner make out a prima facie case of obvious so that Applicants can adequately respond. Specifically, Applicants request the Examiner to clearly explain what descriptive matter of claims 10-12 is alleged to be missing in the references, to provide a suggestion or motivation to modify the references with the missing descriptive matter, and to factually support any assertions that the references, when modified, disclose each and every element of the claims.

VIII. NEW CLAIMS 20-27

Claims 20-27 have been added herein. It is respectfully submitted that the claims do not add new matter and have adequate support throughout the Specification. It is also submitted that claims 20-27 are allowable over the cited art. Specifically, claims 10 and 20 are allowable for the reasons discussed above, claims 21-25 are allowable by virtue of their dependence from claim 20, and claims 26 and 27 are allowable by virtue of their dependence from claim 10.

IX. CONCLUSION

In view of the foregoing, it is respectfully submitted that all pending claims are allowable. Accordingly, reconsideration and prompt allowance of all pending claims is therefore earnestly solicited.

I hereby certify that this correspondence is being deposited with the United States Postal in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450, on November 16, 2004

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